

229115

BEFORE THE
PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA

COVER SHEET

Application of GC Pivotal, LLC For a Certificate of Public Convenience and Necessity to Provide Interexchange and Local Exchange Telecommunications Services and for local service offerings to be regulated in accordance with procedures authorized for NewSouth Communications in Order No. 98-165 in docket No. 97-467-C; and for interexchange service offerings to be regulated in accordance with procedures established for alternative regulation in Order Nos. 95-1734 and 96-55 in Docket No. 95-661-C.

DOCKET

NUMBER: 2011 - 109 - C

Submitted by: Angela Janssen

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DOCKETING INFORMATION (Check all that apply)

☐ Emergency Relief demanded in petition
expeditiously

☐ Request for item to be placed on Commission's Agenda

☐ Other: _____

INDUSTRY (Check one)	NATURE OF ACTION (Check all that apply)		
<input type="checkbox"/> Electric	<input type="checkbox"/> Affidavit	<input type="checkbox"/> Letter	<input type="checkbox"/> Request
<input type="checkbox"/> Electric/Gas	<input type="checkbox"/> Agreement	<input type="checkbox"/> Memorandum	<input type="checkbox"/> Request for Certificatio
<input type="checkbox"/> Electric/Telecommunications	<input type="checkbox"/> Answer	<input type="checkbox"/> Motion	<input type="checkbox"/> Request for Investigator
<input type="checkbox"/> Electric/Water	<input type="checkbox"/> Appellate Review	<input type="checkbox"/> Objection	<input type="checkbox"/> Resale Agreement
<input type="checkbox"/> Electric/Water/Telecom.	<input type="checkbox"/> Application	<input type="checkbox"/> Petition	<input type="checkbox"/> Resale Amendment
<input type="checkbox"/> Electric/Water/Sewer	<input type="checkbox"/> Brief	<input type="checkbox"/> Petition for Reconsideration	<input type="checkbox"/> Reservation Letter
<input type="checkbox"/> Gas	<input type="checkbox"/> Certificate	<input type="checkbox"/> Petition for Rulemaking	<input type="checkbox"/> Response
<input type="checkbox"/> Railroad	<input type="checkbox"/> Comments	<input type="checkbox"/> Petition for Rule to Show Cause	<input type="checkbox"/> Response to Discovery
<input type="checkbox"/> Sewer	<input type="checkbox"/> Complaint	<input type="checkbox"/> Petition to Intervene	<input type="checkbox"/> Return to Petition
<input checked="" type="checkbox"/> Telecommunications	<input type="checkbox"/> Consent Order	<input type="checkbox"/> Petition to Intervene Out of Time	<input type="checkbox"/> Stipulation
<input type="checkbox"/> Transportation	<input type="checkbox"/> Discovery	<input checked="" type="checkbox"/> Prefiled Testimony	<input type="checkbox"/> Subpoena
<input type="checkbox"/> Water	<input type="checkbox"/> Exhibit	<input type="checkbox"/> Promotion	<input type="checkbox"/> Tariff
<input type="checkbox"/> Water/Sewer	<input type="checkbox"/> Expedited Consideration	<input type="checkbox"/> Proposed Order	<input type="checkbox"/> Other: _____
<input type="checkbox"/> Administrative Matter	<input type="checkbox"/> Interconnection Agreement	<input type="checkbox"/> Protest	
<input type="checkbox"/> Other:	<input type="checkbox"/> Interconnection Amendment	<input type="checkbox"/> Publisher's Affidavit	
	<input type="checkbox"/> Late-Filed Exhibit	<input type="checkbox"/> Report	

RETURN DATE: OK
SERVICE: OK

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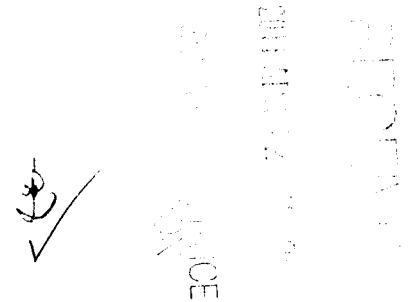
Also Admitted in New York
and Maryland

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April 11, 2011

VIA OVERNIGHT DELIVERY

Ms. Jocelyn G. Boyd
Chief Clerk of the Commission
The Public Service Commission
State of South Carolina
101 Executive Center Drive, Suite 100
Columbia, South Carolina 29210
(803) 896-5100



RE: GC Pivotal, LLC
Docket No. 2011-109-C

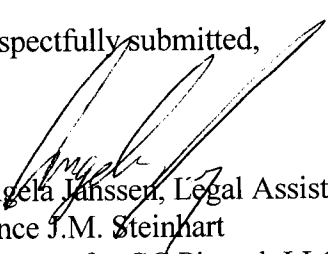
Dear Mr. Terreni:

Enclosed please find for filing an original and twenty-five (25) copies of the company's pre-filed testimony. The company does not intend to engage in telemarketing in the State of South Carolina.

I have enclosed an extra copy of this letter to be date-stamped and returned to me in the self-addressed, postage prepaid envelope I have provided.

If you have any questions or if I may provide you with any additional information, please do not hesitate to contact me. Thank you.

Respectfully submitted,


Angela Janssen, Legal Assistant to
Lance J.M. Steinhart
Attorney for GC Pivotal, LLC

Enclosures

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A. See Exhibit D to our application.

4. **Q. What is the purpose of your testimony?**

A. The purpose of my testimony is to describe the nature of Pivotal's proposed service offering within the State of South Carolina, and to demonstrate its financial, managerial, and technical ability to provide the telecommunications services for which authority is sought herein.

5. Q. Do you wish to incorporate by reference any documents into your testimony?

A. Yes. I wish to incorporate by reference the underlying Application filed in this proceeding and its associated attachments.

II. The Business of Pivotal

6. **Q. Has Pivotal registered to do business in South Carolina?**

A. Yes. Pivotal is a Delaware Limited Liability Company that has received authorization to transact business within the State of South Carolina. A copy of Pivotal's Certificate of Formation is attached to the Application as Exhibit A and a copy of the document of authorization from the State of South Carolina is attached to that Application as Exhibit B.

7. **Q. Please describe the services Pivotal intends to provide within the State of South Carolina.**

A. GC Pivotal seeks authority to provide telecommunication services throughout the State of South Carolina. Pivotal will offer resold data circuits by utilizing the facilities of incumbent local exchange carriers ("LECs") and other facilities-based carriers. Pivotal will not own its own circuits or fiber. Pivotal will resell Layer One (DS-1's & OCNs), Layer Two (ATM and Frame Relay), and Layer Three (MPLS) data circuits to business customers only. No voice services will be provided. All services will be provided pursuant to contracts between Pivotal and its customers. Pivotal has no plans to install either purchased or leased facilities in the State of South Carolina.

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2 Its services will be available on a full-time basis, twenty-four hours a day, seven
3 days a week, to customers within the geographic boundaries of the State of South
4 Carolina. Customers will be billed by Applicant. Applicant is willing to accept its
5 obligations to collect 911 and dual relay service surcharges from its local
6 exchange customers, and to remit those funds to the appropriate authorities.

7 8. **Q. What carrier will Pivotal utilize as its underlying carrier for services in South**
8 **Carolina?**

9 A. Pivotal intends to offer resold local service and interexchange using facilities of the
10 incumbent local exchange telephone companies ("LECs") certificated to provide
11 local exchange service in the State of South Carolina. The company intends to
12 initially negotiate with BellSouth.

13 9. **Q. Does Pivotal have authorization to provide intrastate telecommunications**
14 **services in any other state?**

15 A. Yes. Pivotal has received authorizations to provide resold data, interexchange
16 and/or local services in Alabama, Hawaii, Idaho, Indiana, Kentucky, Minnesota,
17 Montana, Nebraska, New Jersey, New Mexico, North Dakota, Oregon, Rhode
18 Island, South Dakota, Vermont, Wisconsin and Wyoming.. Applicant has not
19 been denied authority for any of the services for which it seeks authority in this
20 Application.

21 10. **Q. Has Pivotal ever had an application for a certificate of public convenience and**
22 **necessity denied?**

23 A. No.
24

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2 11. **Q. Does Pivotal intend to file a tariff with the Commission?**

3 A. Yes. An interexchange and local exchange tariff is attached as Exhibit E to its
4 Application in this proceeding that it will modify as necessary in order to meet the
5 Commission's requirements. We believe Pivotal's Tariff will comport with all
6 Orders, Rules, and Regulations of the Commission.

7 12. **Q. Will Pivotal comply with the Commission's orders regarding the provision of**
8 **interexchange and local services?**

9 A. Yes. Pivotal will at all times provide and market services in accordance with
10 current Commission policies. In particular, Pivotal is familiar with Commission
11 Order No. 93-462 regarding resale of intraLATA telecommunications services and
12 will attempt to comply with the terms of that order in every respect possible. In
13 addition, Pivotal at all times will provide interstate services in compliance with all
14 FCC rules and regulations. Pivotal will at all times provide and market services in
15 accordance with current Commission policies and will attempt to comply with the
16 terms of that order in every respect possible.

17 13. **Q. Has Pivotal provided any intrastate telecommunications services within the**
18 **State of South Carolina?**

19 A. No it has not.

20 14. **Q. What rates will Pivotal charge upon receipt of certification?**

21 A. Pivotal will charge the tariffed rates approved by the Commission.

22 15. **Q. How will Pivotal market services in South Carolina?**

23 A. Pivotal intends to market its services via direct sales by Pivotal's employees.
24

1 III. Managerial, Technical and Financial Qualifications

2 16. **Q. Does Pivotal have sufficient managerial, technical, and financial resources and**
3 **ability to provide the telecommunications services proposed in its Application?**

4 A. Yes. Pivotal has sufficient technical, financial, and managerial resources and ability
5 to provide the telecommunications services for which authority is sought herein.
6 Pivotal's personnel represent a broad spectrum of business and technical disciplines,
7 possessing many years of individual and aggregate telecommunications experience.
8 The qualifications and experience of Pivotal's key management team are discussed
9 on Exhibit D which is attached to our Application in support of Applicant's
10 managerial and technical ability to provide the services for which authority is sought
11 herein.

12 17. **Q. How does Pivotal handle customer service requests?**

13 A. Pivotal's customer service representatives are available to assist its customers and
14 will promptly respond to all customer inquiries. Customers may call (866) 226-
15 4244 or a local number. The applicable toll free or local numbers will be printed
16 on customers' monthly billing statements. Alternately, customers wishing to
17 communicate with a Pivotal customer service representative in writing may send
18 written correspondence to Pivotal at:

19
20 GC Pivotal, LLC
21 ATTN: Customer Service
22 200 South Wacker Drive, Ste. 1650
23 Chicago, Illinois 60606
24

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2 Pivotal's customer service representatives are prepared to respond to a broad range
3 of service matters, including inquiries regarding: (1) the types of services offered
4 by Pivotal and the rates associated with such services; (2) monthly billing
5 statements; (3) problems or concerns pertaining to a customer's current service;
6 and (4) general service matters.

7 18. **Q. Please describe the financial condition of Pivotal.**

8 A. In support of Pivotal's financial ability to provide the services sought herein, a copy
9 of Pivotal's Balance Sheet as of February 10, 2011 was submitted as Exhibit C to its
10 Application. Also, by Court Order entered on January 26, 2011, the Bankruptcy
11 Court for the District of Delaware approved the sale of substantially all of the assets
12 of the jointly-administered Global Capacity debtors, including direct and indirect
13 subsidiaries of Capital Growth Systems, Inc., to Pivotal Global Capacity, LLC or its
14 wholly-owned subsidiary assignee GC Pivotal, LLC ("the Bankruptcy Order"). The
15 Bankruptcy Court has determined that Pivotal has the financial ability to close the
16 Proposed Transaction. A copy of the Bankruptcy Order was submitted as Exhibit C
17 to its Application.
18

IV. Public Interest

19. **Q. How will residents of South Carolina benefit from Pivotal's services and presence in South Carolina?**

The Commission's grant of this certificate is in the public interest because consumers of telecommunications services within Pivotal's service territory will receive increased choice, improved quality of service, and heightened opportunities to obtain improved technology to businesses. Market incentives for new and old telecommunications providers in South Carolina will be improved greatly through an increase in the diversity of suppliers and competition within the local exchange telecommunications market. Consistent with the Commission's intent to aid in the development of a competitive telecommunications environment in South Carolina, the granting of a certificate of authority to provide local exchange service will offer increased efficiency to the State's telecommunications infrastructure through greater reliability of services and an increase in competitive choices.

20. **Q. Has the Company ever been the subject of an investigation by any state Regulatory body or by the FCC?**

A. No.

21. **Q. Will the Company agree to abide by and comply with the Commission's Rules and Regulations and Commission Orders in its operations in South Carolina?**

A. Yes.

22. **Q. Does this conclude your testimony?**

A. Yes. I would like to thank the Commission for this opportunity to provide information relevant to Pivotal's Application and am ready to provide any additional information that the Commission may need in making its decision.